

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2545 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHOBHA A CHOKSI

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR YH VYAS for Petitioner

MR MUKESH PATEL for Respondents No. 1 and 2

MR SN SHELAT for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/03/97

C.A.V. JUDGEMENT

1. The petitioner, Assistant Professor in the Department of Biochemistry at B.J. Medical College, Ahmedabad, filed this writ petition against the apprehended action of the respondent to terminate her services.

2. During the course of arguments, the counsel for

the petitioner fairly conceded that no order of termination has been passed till date. The counsel for the petitioner further admits that at the time of filing of this Special Civil Application, the petitioner had apprehension of termination of her services, and as such, the writ petition has been filed.

3. In this writ petition, notice was issued on 5-5-1986 and the interim relief has been ordered to maintain status-quo. Then rule was issued and interim relief was ordered to be continued till further orders. So it is not in dispute that the petitioner is continuing in services.

4. Whatever apprehension the petitioner had at the relevant time, no more survives, as her services were not terminated and furthermore this court has protected the petitioner. This Special Civil Application has been filed at the premature stage. No cause of action had arisen to the petitioner to file this Special Civil Application. Moreover, in the absence of any order of termination, how this court could have set aside the order. The counsel for the petitioner has given out an explanation that in case after termination of services, the petitioner would have approached to this court then possibly the interim relief could not have been granted in her favour.

5. I fail to see any justification in this contention. The respondent has all the powers to terminate the services of its employees in accordance with law and it is not desirable that any restriction or any prohibition should be created by this court in exercise of the said power. Moreover, when ultimately if any order prejudicial to the petitioner is made, it is always open to her to approach to this court or any other appropriate legal forum available for redressal of grievance, and there in case, she has made out any case, the interim relief could have been granted. When this court can protect the petitioner even at the stage when the order of termination has not been passed then how it can be presumed and assumed that when the order is passed, this court may not protect the petitioner by grant of interim relief. However, the fact that the termination of the petitioner has not been ordered so far, no cause of action is there in favour of the petitioner and no relief of the nature as prayed for by the petitioner in this Special Civil Application can be granted.

6. In the result, this Special Civil Application is

dismissed only on the ground that it is premature. However, the dismissal of this writ petition will not come in the way of the petitioner, if ultimately, the respondent decides to terminate her services. If any such order is passed and petitioner considers it to be illegal and beyond the competence of the authority then it shall be open to her to take appropriate legal remedy available to her against the same. Rule discharged. Interim relief granted by this court stands vacated.

zgs/-